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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,410	08/24/2001	Joseph A. Kwak	I-2-203US	4309
24374	7590	07/12/2004	EXAMINER	
VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103				TSEGAYE, SABA
ART UNIT		PAPER NUMBER		
				2662
DATE MAILED: 07/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT PAPER

19

DATE MAILED:

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Commissioner for Patents

The IDS filed on 5/19/04 has been considered. The 1449 form is attached

JOHN PEZZLO
PRIMARY EXAMINER

Checklist for Appeal Conference

Examiner: SABA TSEKAYE
Conferees : HASSAN KIZOU
JOHN PEZZOLO
Serial Numbe: 09/939,410

Art Unit : 2662
Date : 6/30/04

1. Check the pre-conference Checklist prepared by examiner.
 Completed Not completed

STOP - IF THE CHECK LIST HAS NOT BEEN COMPLETED.

2. Are there petitionable matters not appropriate for appeal ? N/A

- Improper Restriction requirement
 Non-entry of AF Amendment
 Premature Final Rejection

Others _____

STOP - IF THERE IS ANY PETITION REQUIRED TO BE ANSWERED.

3. What are the facts of the application on Appeal ?

- What is the invention and what is disclosed and claimed by appellant as the novelty ?
 What is/are the closest prior art of record ?

4. What are the ground(s) of rejection on Appeal ?

5. Subject matter of the claims that stand or fall together :

- Layout the claims (structure, relationship between structure, functional language, etc.)
 State each issue (point of disagreements between you and the appellant)

[A] 102 Rejection –

- Identify/match every element and functional relationship of elements in a single embodiment within the reference.
 Treat any issue of inherency.

[B] 103 Rejection with a single reference – Caution – almost limited to reference combined with applicant admission of prior art (Via specification or official notice procedures) – See In re Zurko

- Identify differences between claim limitations and the prior art.
 Explain what would have been obvious.
 Cite reference numbers and column and line numbers in the reference to match all claim elements as appropriate.
 Establish why a person of ordinary skill would have been motivated to make the modification to the prior art by using the teaching of the prior art or the appellant's admission of prior art or the taking of Official Notice to avoid improper hindsight reasoning. A statement that something would have been obvious is not sufficient.
 Taking Official Notice MUST be supported by a cited reference for Appeal purpose.

[C] 103 rejection with a combination of references –

- Identify differences between claim limitations and the primary reference
 Identify the subject matter in the secondary reference that teaches the differences
 Cite reference numbers and column & line numbers in the references to match all claim elements as appropriate.
 Establish why a person of ordinary skill would have been motivated to make the modification. A mere statement that something would have been obvious is not sufficient. MUST establish factual basis for the stated motivation.
 Taking of Official Notice MUST be supported by a cited reference for Appeal purpose.

[D] 112/1 Rejection –

- What is the issue in the claim(s) ?
 What is the closest portion of the Specification that may support the claim(s) ?
 Why is the disclosure not complying ?

[E] 112/2 Rejection –

- Is the rejection proper (indefinite, mis-descriptive, fails to define metes and bounds Etc.) ?
 Should objection under 37 CFR 1.75(a) or (d) be more appropriate ?

[F] 112/6 issue -

- Has 112/6 been invoked by the appellant ?
 Were claims treated properly after the 3-prong analysis ?

[G] Obvious Double Patenting Rejection –

Yes No If Yes :

- In re Schneller type (Director approval required)
 One-way obviousness (the application at issue is the later filed or both were filed on the same date)
 Two-way obviousness (the patent is the later filed application)
 Have the parallel guidelines for a 103 rejection been applied (see MPEP 804(B)(1)).

Appeal : YES NO If "NO" :
Why :

Pre - Conference CheckList for Appeal

Examiner : SABA TSEGAYE
Art Unit : 2662
Serial No. 09/939,410

1. Were all papers filed properly considered and treated by the examiner ?
 - Any paper missing from file record – Review CONTENTS table and the application papers.
 - Were Preliminary or regular amendments properly entered and/or treated ?
 - IDS (PTOL-1449) or PCT Search Report – All considered and acknowledged.
 - Are there any unanswered Petitions (improper Restriction, premature Final Rejection etc) ?
Declarations or Affidavits (Rule 130, 131, 132 etc)
If "Yes" – All Petitions MUST be answered prior to Appeal.
2. Were all papers after Final Rejection timely filed ?
 - Notice of Appeal – 3 months from FR with up to 3 month X-of-time (37 CFR 1.136(a))
 - Appeal Brief – 2 month from Notice of appeal with up to 5 month X-of-time (37 CFR 1.136(a))
 - Was Extension-of-time properly processed and charged (Check EXPO, under RAM) ?
3. Amendment After Final :
 - Were all AF Amendments properly treated for entry/non-entry ?
 - If amendment was filed concurrent with the Appeal Brief, was it filed as a separate paper ?
 - If AF aments were entered, do claims in the appendix reflect the changes made to the AF amdts ?
Check the Appeal Brief :
 - Claims on Appeal
 - Status of Amendments after Final
 - Appendix
4. Check required Headings and Contents of Appeal Brief:
 - Real Party in Interest (effective after 4/21/95)
 - Related Appeals and Interferences (effective 4/21/95)
 - Status of Claims
 - Status of Amendments
 - Summary of the Invention
 - Issues
 - Grouping of Claims –
If claims do not stand or fall together, is there a separate argument for each claim or each group of claims
YES NO
 - Arguments
 - Appendix (no brackets/underlinings in claims, except reissue application)

5. Were all claims properly treated ?
Total number of claims under Appeal 31
Total number of claims rejected 31
Total number of claims objected to _____
Any claims allowed . NO
YES
Claims _____
- YES NO
Claims 1-31
Claims _____
Claims _____

S. S. Begaye
Examiner

Supervisory Patent Examiner

Post-Conference CheckList for Appeal

Examiner : SABA TISEGAYE
Art Unit : 2662
Serial No. 09/939,410

1. Review previous Conference Checklists for Appeal

Check issues under Appeal for compliance with issues discussed in Item 5 of the Checklist For Appeal Conference.
 YES NO

2. Check required Headings of Examiner's Answer :

- Real Party of Interest
- Related Appeals and Interferences
- Status of Claims
- Summary of the Invention
- Issues
- Grouping of Claims
- ClaimsAppealed

References of Record - All references relied upon for rejection
(including Official Notice)

Foreign reference relied upon YES

Any translations needed YES NO

New Prior Art (Not permitted – after 12/01/97)

Ground of Rejection

New Grounds of Rejection (Not Permitted –after 12/01/97)

Response to Arguments

3. Amendment After Final :

Were all AF Amendments properly treated for entry/non-entry ? YES NO

If an AF Amdt. were to be entered for purpose of Appeal, were they physically entered for Appeal ?

YES NO

If an amendment was filed concurrent with the Appeal Brief, was it filed as a separate paper ?

YES NO

Was the concurrently filed amendment properly entered and considered by examiner ?

YES NO

If AF aments were entered, do claims on the appendix reflect the changes made to the AF amendments ?

Check in the Examiner's Answer :

- Claims on Appeal
- Status of Amendments after Final
- Appendix - claim

4. Editing Your final product :

Make sure your arguments are well thought out. Keep in mind the Administrative Patent judges are generalists and write to your audience.

Answer all arguments and issues raised by the appellant.

Minimunize repetitive arguments, reword them instead of just cut and paste if necessary.

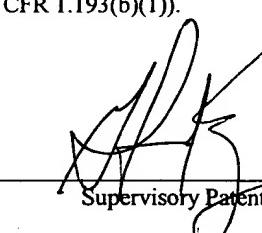
Spell check and grammar check.

REMEMBER : If the appellant responds to your Examiner's Answer with a Reply Brief – You are only required to send a Notice of Acknowledgement for the Reply Brief.

(No Supplemental Examiner's Answer is permitted after 12/01/97 (37 CFR 1.193(b)(1)).

S.Tisegaye

Examiner


Supervisory Patent Examiner